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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1395

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The bill was read for the first time and referred to the Committee on Health and Human Services

By motion, recalled and re-referred to the Committee on Taxes

March 20, 2007

By motion, recalled and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to human services; providing rate increases for nursing facilities,
1.3 ICFs/MR, and community-based long-term care providers; setting a floor
1.4 for nursing facility payment rates; modifying individual income tax rates;
1.5 establishing the long-term care payment rate account; appropriating money;
1.6 amending Minnesota Statutes 2006, sections 256B.434, by adding subdivisions;
1.7 256B.5012, by adding a subdivision; 290.06, subdivisions 2c, 2d; 290.62.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2006, section 256B.434, is amended by adding a
1.10 subdivision to read:

1.11 Subd. 4i. Rate increases for October 1, 2007, and October 1, 2008. (a) For the
1.12 rate period beginning October 1, 2007, the commissioner shall make available to each
1.13 nursing facility reimbursed under this section or section 256B.441 an adjustment equal to
1.14 seven percent of the total operating payment rate, and for the rate year beginning October
1.15 1, 2008, the commissioner shall make available to each nursing facility reimbursed under
1.16 this section or section 256B.441 an adjustment equal to six percent of the total operating
1.17 payment rate.

1.18 (b) Seventy-five percent of the money resulting from the rate adjustment under
1.19 paragraph (a) must be used to increase wages and benefits and pay associated costs
1.20 for all employees, except management fees, the administrator, and central office staff.
1.21 Seventy-five percent of the money received by a facility as a result of the rate adjustment
1.22 provided in paragraph (a) must be used only for wage, benefit, and staff increases
1.23 implemented on or after the effective date of the rate increase each year, and must not be
1.24 used for increases implemented prior to that date.

2.1 (c) Nursing facilities may apply for the portion of the rate adjustment under
2.2 paragraph (a) for employee wages and benefits and associated costs. The application
2.3 must be made to the commissioner and contain a plan by which the nursing facility
2.4 will distribute the funds according to paragraph (b). For nursing facilities in which the
2.5 employees are represented by an exclusive bargaining representative, an agreement
2.6 negotiated and agreed to by the employer and the exclusive bargaining representative
2.7 constitutes the plan. A negotiated agreement may constitute the plan only if the agreement
2.8 is finalized after the date of enactment of all increases for the rate year and signed by both
2.9 parties prior to submission to the commissioner. The commissioner shall review the
2.10 plan to ensure that the rate adjustments are used as provided in paragraph (b). To be
2.11 eligible, a facility must submit its distribution plan by March 31, 2008, and March 31,
2.12 2009, respectively. The commissioner may approve distribution plans on or before June
2.13 30, 2008, and June 30, 2009, respectively. If a facility's distribution plan is effective after
2.14 the first day of the applicable rate period that the funds are available, the rate adjustments
2.15 are effective the same date as the facility's plan.

2.16 (d) A copy of the approved distribution plan must be made available to all employees
2.17 by giving each employee a copy or by posting a copy in an area of the nursing facility
2.18 to which all employees have access. If an employee does not receive the wage and
2.19 benefit adjustment described in the facility's approved plan and is unable to resolve the
2.20 problem with the facility's management or through the employee's union representative,
2.21 the employee may contact the commissioner at an address or telephone number provided
2.22 by the commissioner and included in the approved plan.

2.23 Sec. 2. Minnesota Statutes 2006, section 256B.434, is amended by adding a
2.24 subdivision to read:

2.25 Subd. 4j. **Rate increase for nursing facilities.** Effective October 1, 2007, operating
2.26 payment rates of all nursing facilities that are reimbursed under this section or section
2.27 256B.441 must be increased to be equal, for a RUG's rate with a weight of 1.00, to the
2.28 geographic group III median rate for the same RUG's weight. The percentage of the
2.29 operating payment rate for each facility to be case-mix adjusted must be equal to the
2.30 percentage that is case-mix adjusted in that facility's September 30, 2007, operating
2.31 payment rate. This subdivision applies only if it results in a rate increase. Increases
2.32 provided by this subdivision must be calculated after any other nursing facility rate
2.33 increase provided under this chapter. Increases provided by this subdivision must be
2.34 added to the rate determined under any new reimbursement system established under
2.35 section 256B.441.

3.1 Sec. 3. Minnesota Statutes 2006, section 256B.5012, is amended by adding a
3.2 subdivision to read:

3.3 Subd. 7. ICF/MR rate increases October 1, 2007, and October 1, 2008. (a) For
3.4 the rate period beginning October 1, 2007, the commissioner shall make available to
3.5 each facility reimbursed under this section an adjustment to the total operating payment
3.6 rate of seven percent. For the rate period beginning October 1, 2008, the commissioner
3.7 shall make available to each facility reimbursed under this section an adjustment to the
3.8 total operating payment rate of six percent.

3.9 (b) Seventy-five percent of the money resulting from the rate adjustment under
3.10 paragraph (a) must be used to increase wages and benefits and pay associated costs for
3.11 employees, except for administrative and central office employees. Seventy-five percent
3.12 of the money received by a facility as a result of the rate adjustment provided in paragraph
3.13 (a) must be used only for wage, benefit, and staff increases implemented on or after
3.14 the effective date of the rate increase each year, and must not be used for increases
3.15 implemented prior to that date. The wage adjustment eligible employees may receive may
3.16 vary based on merit, seniority, or other factors determined by the provider.

3.17 (c) For each facility, the commissioner shall make available an adjustment, based
3.18 on occupied beds, using the percentage specified in paragraph (a) multiplied by the total
3.19 payment rate, including variable rate but excluding the property-related payment rate, in
3.20 effect on the preceding day. The total payment rate must include the adjustment provided
3.21 in section 256B.501, subdivision 12.

3.22 (d) A facility whose payment rates are governed by closure agreements, receivership
3.23 agreements, or Minnesota Rules, part 9553.0075, is not eligible for an adjustment
3.24 otherwise granted under this subdivision.

3.25 (e) A facility may apply for the portion of the payment rate adjustment provided
3.26 under paragraph (a) for employee wages and benefits and associated costs. The application
3.27 must be made to the commissioner and contain a plan by which the facility will distribute
3.28 the funds according to paragraph (b). For facilities in which the employees are represented
3.29 by an exclusive bargaining representative, an agreement negotiated and agreed to by the
3.30 employer and the exclusive bargaining representative constitutes the plan. A negotiated
3.31 agreement may constitute the plan only if the agreement is finalized after the date of
3.32 enactment of all rate increases for the rate year. The commissioner shall review the plan to
3.33 ensure that the payment rate adjustment per diem is used as provided in this subdivision.
3.34 To be eligible, a facility must submit its plan by March 31, 2008, and December 31,
3.35 2008, respectively. If a facility's plan is effective for its employees after the first day of

4.1 the applicable rate period that the funds are available, the payment rate adjustment per
 4.2 diem is effective the same date as its plan.

4.3 (f) A copy of the approved distribution plan must be made available to all employees
 4.4 by giving each employee a copy or by posting it in an area of the facility to which all
 4.5 employees have access. If an employee does not receive the wage and benefit adjustment
 4.6 described in the facility's approved plan and is unable to resolve the problem with the
 4.7 facility's management or through the employee's union representative, the employee
 4.8 may contact the commissioner at an address or telephone number provided by the
 4.9 commissioner and included in the approved plan.

4.10 Sec. 4. Minnesota Statutes 2006, section 290.06, subdivision 2c, is amended to read:

4.11 Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income
 4.12 taxes imposed by this chapter upon married individuals filing joint returns and surviving
 4.13 spouses as defined in section 2(a) of the Internal Revenue Code must be computed by
 4.14 applying to their taxable net income the following schedule of rates:

- 4.15 (1) On the first ~~\$25,680~~ \$31,150, 5.35 percent;
 4.16 (2) On all over ~~\$25,680~~ \$31,150, but not over ~~\$102,030~~ \$123,750, 7.05 percent;
 4.17 (3) On all over ~~\$102,030~~ \$123,750, but not over \$500,000, 7.85 percent;
 4.18 (4) On all over \$500,000, 9.8 percent.

4.19 Married individuals filing separate returns, estates, and trusts must compute their
 4.20 income tax by applying the above rates to their taxable income, except that the income
 4.21 brackets will be one-half of the above amounts.

4.22 (b) The income taxes imposed by this chapter upon unmarried individuals must be
 4.23 computed by applying to taxable net income the following schedule of rates:

- 4.24 (1) On the first ~~\$17,570~~ \$21,310, 5.35 percent;
 4.25 (2) On all over ~~\$17,570~~ \$21,310, but not over ~~\$57,710~~ \$69,990, 7.05 percent;
 4.26 (3) On all over ~~\$57,710~~ \$69,990, but not over \$282,790, 7.85 percent;
 4.27 (4) On all over \$282,790, 9.8 percent.

4.28 (c) The income taxes imposed by this chapter upon unmarried individuals qualifying
 4.29 as a head of household as defined in section 2(b) of the Internal Revenue Code must be
 4.30 computed by applying to taxable net income the following schedule of rates:

- 4.31 (1) On the first ~~\$21,630~~ \$26,230, 5.35 percent;
 4.32 (2) On all over ~~\$21,630~~ \$26,230, but not over ~~\$86,910~~ \$105,410, 7.05 percent;
 4.33 (3) On all over ~~\$86,910~~ \$105,410, but not over \$425,890, 7.85 percent;
 4.34 (4) On all over \$425,890, 9.8 percent.

5.1 (d) In lieu of a tax computed according to the rates set forth in this subdivision, the
 5.2 tax of any individual taxpayer whose taxable net income for the taxable year is less than
 5.3 an amount determined by the commissioner must be computed in accordance with tables
 5.4 prepared and issued by the commissioner of revenue based on income brackets of not
 5.5 more than \$100. The amount of tax for each bracket shall be computed at the rates set
 5.6 forth in this subdivision, provided that the commissioner may disregard a fractional part of
 5.7 a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

5.8 (e) An individual who is not a Minnesota resident for the entire year must compute
 5.9 the individual's Minnesota income tax as provided in this subdivision. After the
 5.10 application of the nonrefundable credits provided in this chapter, the tax liability must
 5.11 then be multiplied by a fraction in which:

5.12 (1) the numerator is the individual's Minnesota source federal adjusted gross income
 5.13 as defined in section 62 of the Internal Revenue Code and increased by the additions
 5.14 required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), and (9),
 5.15 and reduced by the Minnesota assignable portion of the subtraction for United States
 5.16 government interest under section 290.01, subdivision 19b, clause (1), and the subtractions
 5.17 under section 290.01, subdivision 19b, clauses (9), (10), (14), (15), and (16), after applying
 5.18 the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

5.19 (2) the denominator is the individual's federal adjusted gross income as defined in
 5.20 section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in
 5.21 section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), and (9), and reduced by the
 5.22 amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15),
 5.23 and (16).

5.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 5.25 December 31, 2006, except that for taxable years beginning after December 31, 2006, and
 5.26 before January 1, 2008, the 9.8 percent rate is reduced to 8.0 percent, and for taxable years
 5.27 beginning after December 31, 2007, and before January 1, 2010, the 9.8 percent rate
 5.28 is reduced to 9.5 percent.

5.29 Sec. 5. Minnesota Statutes 2006, section 290.06, subdivision 2d, is amended to read:

5.30 Subd. 2d. **Inflation adjustment of brackets.** (a) For taxable years beginning after
 5.31 December 31, ~~2000~~ 2007, the minimum and maximum dollar amounts for each rate
 5.32 bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the
 5.33 percentage determined under paragraph (b). For the purpose of making the adjustment as
 5.34 provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the
 5.35 rate brackets as they existed for taxable years beginning after December 31, ~~1999~~ 2006,

6.1 and before January 1, ~~2001~~ 2008. The rate applicable to any rate bracket must not be
6.2 changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes
6.3 in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10
6.4 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

6.5 (b) The commissioner shall adjust the rate brackets and by the percentage determined
6.6 pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in
6.7 section 1(f)(3)(B) the word "1999" shall be substituted for the word "1992." For ~~2001~~
6.8 2008, the commissioner shall then determine the percent change from the 12 months
6.9 ending on August 31, ~~1999~~ 2006, to the 12 months ending on August 31, ~~2000~~ 2007, and
6.10 in each subsequent year, from the 12 months ending on August 31, ~~1999~~ 2006, to the 12
6.11 months ending on August 31 of the year preceding the taxable year. The determination of
6.12 the commissioner pursuant to this subdivision shall not be considered a "rule" and shall
6.13 not be subject to the Administrative Procedure Act contained in chapter 14.

6.14 No later than December 15 of each year, the commissioner shall announce the
6.15 specific percentage that will be used to adjust the tax rate brackets.

6.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
6.17 December 31, 2006.

6.18 Sec. 6. Minnesota Statutes 2006, section 290.62, is amended to read:

6.19 **290.62 DISTRIBUTION OF REVENUES.**

6.20 **Subdivision 1. Payment into state treasury.** All revenues derived from the
6.21 taxes, interest, penalties and charges under this chapter shall, notwithstanding any other
6.22 provisions of law, be paid into the state treasury and credited to the general fund, and
6.23 be distributed as follows:

6.24 (1) There shall, notwithstanding any other provision of the law, be paid from this
6.25 general fund all refunds of taxes erroneously collected from taxpayers under this chapter
6.26 as provided herein;

6.27 (2) There is hereby appropriated to the persons entitled to payment herein, from
6.28 the fund or account in the state treasury to which the money was credited, an amount
6.29 sufficient to make the refund and payment.

6.30 **Subd. 2. Long-term care payment rate account.** By July 15 of each odd-numbered
6.31 year, the commissioner of finance, in consultation with the commissioner of revenue, shall
6.32 estimate the amount of revenue anticipated for the biennium resulting from the increases
6.33 in section 290.06, subdivisions 2c and 2d. The estimated amounts must be deposited in a
6.34 long-term care payment rate account in the special revenue fund. Amounts in the account,

7.1 along with its investment earnings, are credited to the account and are available to fund
7.2 increases in long-term care provider payment rates.

7.3 **EFFECTIVE DATE.** This section is effective July 1, 2007.

7.4 Sec. 7. **COMMUNITY SERVICE PROVIDER RATE.**

7.5 (a) The commissioner of human services shall increase reimbursement rates or rate
7.6 limits, as applicable, by seven percent for the rate period beginning October 1, 2007,
7.7 and by six percent for the rate period beginning October 1, 2008, effective for services
7.8 rendered on or after those dates.

7.9 (b) The annual rate increases described in this section must be provided to:

7.10 (1) home and community-based waived services for persons with developmental
7.11 disabilities or related conditions under Minnesota Statutes, section 256B.501;

7.12 (2) home and community-based waived services for the elderly under Minnesota
7.13 Statutes, section 256B.0915;

7.14 (3) waived services under community alternatives for disabled individuals under
7.15 Minnesota Statutes, section 256B.49;

7.16 (4) community alternative care waived services under Minnesota Statutes, section
7.17 256B.49;

7.18 (5) traumatic brain injury waived services under Minnesota Statutes, section
7.19 256B.49;

7.20 (6) nursing services and home health services under Minnesota Statutes, section
7.21 256B.0625, subdivision 6a;

7.22 (7) personal care services and nursing supervision of personal care services under
7.23 Minnesota Statutes, section 256B.0625, subdivision 19a;

7.24 (8) private duty nursing services under Minnesota Statutes, section 256B.0625,
7.25 subdivision 7;

7.26 (9) day training and habilitation services for adults with developmental disabilities
7.27 or related conditions under Minnesota Statutes, sections 252.40 to 252.46;

7.28 (10) alternative care services under Minnesota Statutes, section 256B.0913;

7.29 (11) adult residential program grants under Minnesota Rules, parts 9535.2000 to
7.30 9535.3000;

7.31 (12) adult and family community support grants under Minnesota Rules, parts
7.32 9535.1700 to 9535.1760;

7.33 (13) the group residential housing supplementary service rate under Minnesota
7.34 Statutes, section 256I.05, subdivision 1a;

8.1 (14) adult mental health integrated fund grants under Minnesota Statutes, section
8.2 245.4661;

8.3 (15) semi-independent living services (SILS) under Minnesota Statutes, section
8.4 252.275, including SILS funding under county social services grants formerly funded
8.5 under Minnesota Statutes, chapter 256I;

8.6 (16) community support services for deaf and hard-of-hearing adults with mental
8.7 illness who use or wish to use sign language as their primary means of communication;

8.8 (17) living skills training programs for persons with intractable epilepsy who need
8.9 assistance in the transition to independent living;

8.10 (18) physical therapy services under sections 256B.0625, subdivision 8, and
8.11 256D.03, subdivision 4;

8.12 (19) occupational therapy services under sections 256B.0625, subdivision 8a, and
8.13 256D.03, subdivision 4;

8.14 (20) speech-language therapy services under section 256D.03, subdivision 4, and
8.15 Minnesota Rules, part 9505.0390; and

8.16 (21) respiratory therapy services under section 256D.03, subdivision 4, and
8.17 Minnesota Rules, part 9505.0295.

8.18 (c) Providers that receive a rate increase under this section shall use 75 percent of
8.19 the additional revenue to increase wages and benefits and pay associated costs for all
8.20 employees, except for management fees, the administrator, and central office staff.

8.21 (d) For public employees, the increase for wages and benefits for certain staff is
8.22 available and pay rates must be increased only to the extent that they comply with laws
8.23 governing public employees collective bargaining. Money received by a provider for pay
8.24 increases under this section may be used only for increases implemented on or after the
8.25 first day of the rate period in which the increase is available and must not be used for
8.26 increases implemented prior to that date.

8.27 (e) A copy of the provider's plan for complying with paragraph (c) must be made
8.28 available to all employees by giving each employee a copy or by posting a copy in an area
8.29 of the provider's operation to which all employees have access. If an employee does not
8.30 receive the adjustment, if any, described in the plan and is unable to resolve the problem
8.31 with the provider, the employee may contact the employee's union representative. If the
8.32 employee is not covered by a collective bargaining agreement, the employee may contact
8.33 the commissioner at a telephone number provided by the commissioner and included in
8.34 the provider's plan.

8.35 **Sec. 8. APPROPRIATION.**

9.1 There is annually appropriated from the long-term care payment rate account in the
9.2 special revenue fund to the commissioner of human services, beginning October 1, 2007,
9.3 and each July 1 thereafter, an amount sufficient to fund the long-term care provider rate
9.4 increases authorized by sections 1, 2, 3, and 7.